



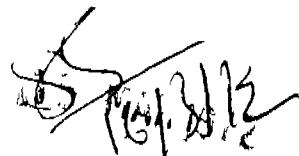
# भारत का राजपत्र

## The Gazette of India

असाधारण  
EXTRAORDINARY

भाग —खण्ड 2  
PART II—Section 2

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY



सं० ५६] नई विल्ली, शुक्रवार, विसम्बर ३, १९७१/ग्रहाधण १२, १८९३  
No. ५६] NEW DELHI, FRIDAY, DECEMBER 3, 1971/AGRAHAYANA १२, १८९

इस भाग में भिन्न पृष्ठ संलग्न चीज़ों की जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation.

### LOK SABHA

The following Bills were introduced in Lok Sabha on the 3rd December, 1971:—

#### Bill No. 136 of 1971

*A Bill further to amend the Constitution of India*

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1971. Short title.
2. For article 368 of the Constitution, the following article shall be substituted, namely:— Substitution of article 368.

"368. An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill, after being passed in each House of Parliament by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, is ratified by resolutions to that effect passed by the Legislatures of not less than two-thirds of the States representing not less than two-thirds of the population of all States, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill.

*Explanation.*—In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published."

## STATEMENT OF OBJECTS AND REASONS

In order to increase the sense of participation of the States in the process relating to the alteration of the Constitution, to ensure stability and to provide for a check against hasty amendments of the Constitution, it is necessary that article 368 be amended so that every amendment of the Constitution should need ratification by at least two-thirds of the States representing two-thirds of the total population of India. Such an amendment has become all the more necessary in view of the increase in the number of small States already created or which are being agitated for and might be created.

Hence this Bill.

NEW DELHI;  
*The 22nd October, 1971.*

C. CHITTIBABU.

**Bill No. 148 of 1971**

*A Bill to provide for the establishment of the Crop Insurance Corporation for the purpose of undertaking the business of crop insurance so as to protect the interest of small farmers from loss due to unavoidable causes.*

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

**CHAPTER I****PRELIMINARY**

1. (1) This Act may be called the Crop Insurance Corporation Act, Short title, 1971.

(2) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act for different States or for different parts thereof. commencement and application.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "Board" means the Board of Directors constituted under section 7;

(b) "Corporation" means the Crop Insurance Corporation set up under this Act;

(c) "Crop" means and includes paddy, wheat, gram, barley, millet, corn, potato, pulses, sugarcane and such other agricultural commodities which may be notified, from time to time, by the Central Government in the Official Gazette;

(d) "Crop Insurance" means and includes insurance against loss of the insured crop due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wild life, insect infestation, plant disease and such other unavoidable causes as may be prescribed;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "scheme" means a scheme made under this Act for the purpose of providing compulsory insurance to the growers of crops for harvesting.

## CHAPTER II

### THE CROP INSURANCE CORPORATION OF INDIA

Establishment  
of Crop  
Insur-  
ance  
Corpora-  
tion  
of India.

**3. (1)** With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Central Government shall establish for the purposes of this Act a Corporation known as the Crop Insurance Corporation of India.

**(2)** The Corporation shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by that name, sue and be sued.

Offices  
and  
agencies  
of the  
Corpora-  
tion.

**4. (1)** The head office of the Corporation shall be at Delhi or at such other place as the Central Government may, by notification in the Official Gazette, specify.

**(2)** The Corporation may, with the previous approval of the Central Government, establish offices or agencies in India.

Capital  
of Cor-  
poration.

**5. (1)** The original capital of the Corporation shall be such sum not exceeding five hundred crores of rupees as the Central Government may fix.

**(2)** The Central Government may from time to time increase the capital of the Corporation to such extent and in such manner as that Government may determine.

**(3)** Such capital may be provided by the Central Government from time to time after due appropriation made by Parliament by law for the purpose and subject to such terms and conditions as may be determined by that Government.

Manage-  
ment  
of the  
Corpo-  
ration.

**6. (1)** The general superintendence, direction and management of the affairs and business of the Corporation shall vest in a board of directors which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under this Act.

**(2)** The board of directors, in discharging its functions, shall act on business principles having regard to the interests of the Corporation and shall be guided by such instructions on questions of policy as may be given in writing to it by the Central Government.

(3) If any doubt arises as to whether a question is or is not a question of policy, the decision of the Central Government thereon shall be final.

7. (1) The board of directors of the Corporation shall consist of the following, namely:—

(a) a Chairman;

(b) four directors to represent respectively the Ministries of the Central Government dealing with—

(i) food,

(ii) agriculture,

(iii) finance, and

(iv) co-operation;

31 of 1956

(c) the Managing Director of the Life Insurance Corporation of India established under section 3 of the Life Insurance Act, 1956, *ex-officio*;

(d) Controller of insurance, Ministry of Finance;

(e) a managing director having, at least, five years experience of managing the affairs of one or more statutory corporations in the capacity of a managing director;

(f) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) duly elected by the members of the House of the People and the members of the Council of States respectively;

(g) one person each nominated by the Government of the State in which the crop insurance is in operation;

(2) The Chairman and all the directors of the Corporation, other than the directors referred to in clauses (c), (f) and (g) of sub-section (1), shall be appointed by the Central Government.

(3) The managing director shall—

(a) exercise such powers and perform such duties as the board of directors may entrust or delegate to him; and

(b) receive such salary and allowances as the board of directors may, with the approval of the Central Government, fix:

Provided that the first managing director shall receive such salary and allowances as the Central Government may fix.

(4) The term of office of, and the manner of filling casual vacancies among, the chairman and directors of the Board, other than the directors referred to in clauses (c), (f) and (g) of sub-section (1), and the other terms and conditions of their appointment shall, subject to the provisions of sub-section (3), be such as may be prescribed.

8. A person shall be disqualified for being appointed as, and for being, a chairman or director of the Board—

(a) if he is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or

Constitution and powers of the Board of directors.

Disqualification for office of director.

- (b) if he is of unsound mind and stands so declared by a competent court; or
- (c) if he is or has been convicted of any offence which in the opinion of the Central Government involves moral turpitude; or
- (d) if he has been removed or dismissed from the service of the Government or a corporation owned or controlled by the Government; or
- (e) except in the case of the Chairman or the managing director, if he is a Salaried official of the Government or a corporation owned or controlled by the Government.

**9.** (1) The Central Government may, at any time, after consultation with the Board, remove the managing director from office after giving him a reasonable opportunity of showing cause against the proposed removal.

(2) The board of directors may remove any director from office who—

- (a) is or has become subject to any of the disqualifications mentioned in section 8; or
- (b) is absent, without leave of the board of directors, from more than three consecutive meetings thereof without sufficient cause, in the opinion of the board, to exonerate his absence.

(3) The chairman or a director of the Board may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

**Meetings  
of the  
Board  
of  
directors.**

**10.** (1) The board of directors of the Corporation shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Corporation under this Act.

(2) The Chairman of the board or, if for any reason he is unable to attend any meeting, any other director elected by the directors present at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the board shall be decided by a majority of the votes of the directors present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

**Constitu-  
tion of  
Advisory  
Commit-  
tees.**

**11.** (1) The Central Government may, in consultation with the Board, by notification in the Official Gazette, constitute one or more Advisory Committees consisting of such persons and on such terms and conditions as may be prescribed.

(2) It shall be the duty of any such Advisory Committee to advise the Central Government or the Corporation in regard to any matter connected with the purposes of this Act in respect of which its advice is sought by the Central Government, or, by the Corporation, as the case by the Corporation.

(3) The expenses in relation to the Advisory Committees shall be met by the Corporation.

12. (1) The Central Government shall, except in the case of initial constitution of the Board, after consultation with the Corporation, appoint a person to be the Secretary of the Corporation.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Corporation may appoint such other officers and employees as it considers necessary for the efficient performance of its functions.

(3) The methods of appointment, the conditions of service and the scales of pay of the officers and other employees of the Corporation shall—

(a) as respects the Secretary, be such as may be prescribed by the Central Government;

(b) as respects the officers and employees, be such as may be determined by regulations made by the Corporation under this Act.

### CHAPTER III

#### CROP INSURANCE SCHEME

13. (1) The Central Government shall, as soon as after the commencement of this Act, formulate a scheme providing for compulsory insurance of crops planted for harvesting by farmers, who hold not more than ten acres of land.

Crop Insurance Scheme.

The scheme shall, *inter alia* provide for the following namely:—

(a) the terms and conditions of crop insurance;

(b) the terms and conditions of multiple crop insurance, i.e. insurance of two or more agricultural commodities under one contract with the farmer;

(c) the extent to which the insurance loss may be covered;

(d) rate of premium to be paid by the farmers;

(e) procedure for payment of claims for losses in agricultural commodities and the manner of payment.

(2) The scheme made under sub-section (1) may, be modified by the Corporation subject to the condition that any such modification shall come into force after it has received the approval of the Central Government.

14. It shall be the duty of the Corporation to administer the scheme.

Duty of the Corporation.

### CHAPTER IV

#### FINANCE AND AUDIT

15. (1) All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a fund called the Crop Insurance Fund which shall be held and administered by the Corporation for the purposes of this Act.

Crop Insurance Fund.

(2) The Corporation may accept grants, donations and gifts from the Central or any State Government, local authority or any individual or body whether incorporated or not, for all or any of the purposes of this Act.

(3) Subject to the other provisions contained in this Act and to any rules or regulations made on this behalf, all moneys accruing or payable to the said Fund shall be paid into the Reserve Bank of India or such other bank as may be approved by the Central Government to the credit of an account styled as the account of the Crop Insurance Fund.

(4) Such account shall be operated on by such officers as may be authorised by the Corporation.

Purpo-  
ses for  
which  
Fund  
may  
be  
expended.

16. Subject to the provisions of this Act and of any rules made by the Central Government in that behalf, the Crop Insurance Fund shall be expended only for the following purposes, namely:—

(i) payments against losses covered by crop insurance in accordance with the provisions of this Act or the scheme made thereunder and defraying the charges and costs in connection therewith;

(ii) payment of fees and allowances to the members of the Board of Directors and other Committees/Boards which may be constituted to carry out the purposes of this Act;

(iii) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Act;

(iv) defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;

(v) such other purposes as may be prescribed.

Mainten-  
ance of  
acco-  
unts of  
the Corpo-  
ration.

17. The Corporation shall maintain correct accounts of its income and expenditure in such form and in such manner as may be prescribed by the Central Government.

Audit  
of  
acco-  
unts.

18. (1) The accounts of the Corporation shall be audited by auditors who are qualified as auditors of companies under the law for the time being in force relating to companies, and the auditors shall be appointed by the Corporation with the previous approval of the Central Government and shall receive such remunerations from the Corporation as the Central Government may fix.

(2) Every auditor in the performance of his duties shall have at all reasonable times excess to the books, accounts and other documents of the Corporation and may for the purposes of the audit, call for such explanation and information as they may require or may examine any principal or other officer of the Corporation.

(3) The auditors shall submit their report together with an audited copy of the accounts of the Corporation to the Corporation and shall also forward a copy of such report to the Central Government.

Valua-  
tion of  
assets  
and  
liabili-  
ties.

19. The Corporation shall, at intervals of five years, cause an investigation to be made by actuaries into the financial condition of its insurance business, including the valuation of its assets and liabilities and submit the report of the actuaries to the Central Government.

**20.** The Corporation shall, as soon as may be, after the end of each financial year prepare and submit to the Central Government in such form, as may be prescribed, a report giving an account of its activities during the previous financial year, and an account of the activities, if any, which are likely to be undertaken by the Corporation in the current and the immediately following financial year.

**21.** The Central Government shall cause the report of the auditors under section 18, the report of the actuaries under section 19 and the report giving an account of the activities of the Corporation under section 20 to be laid before both the Houses of Parliament, as soon as may be, after each such report is received by the Central Government.

Annua  
report  
to be  
placed  
before  
Parlia-  
ment.

#### MISCELLANEOUS

**22.** The Central Government may, by notification in the Official Gazette, direct that all or any of the provisions of the Insurance Act, \* of 1938 shall apply to the Corporation, subject to such conditions and modifications, not inconsistent with this Act.

Power  
to  
extend  
Insu-  
rance  
Act, 1938.

**23.** The Central Government may give directions to a State Government as to the carrying into execution of any scheme of crop insurance in that State.

Power  
of  
Central  
Govern-  
ment  
to give  
direc-  
tions.

**24.** (1) The Chairman and every Director of the Board shall be indemnified by the Corporation against all losses and expenses incurred by him in, or in relation to, the discharge of his duties except such as caused by his own wilful act or default.

Indem-  
nity of  
Chair-  
man  
and  
direc-  
tors.

(2) A director of the Board shall not be responsible for the acts of any other director or of any other officer or other employee of the Corporation, or for any loss or expenses resulting to the Corporation from the insufficiency or deficiency of value of or title to any property or security acquired or taken on behalf of the Corporation or the insolvency or wrongful act of any debtor or any person under obligation to the Corporation or anything done in good faith in the execution of the duties of his office or in relation thereto.

Protec-  
tion of  
action  
taken  
in good  
faith.

**25.** No suit or prosecution or other legal proceedings shall lie against the Chairman or any director of the Board or any employee of the Corporation for anything which is, in good faith, done or intended to be done in pursuance of this Act.

Power  
to  
make  
rules.

**26.** (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

(a) the term of office of, and the manner of filling casual vacancies among, and the other terms and conditions of appointment of, the directors of the Corporation;

(b) the composition of Advisory Committees and the terms and conditions of service of members thereof;

(c) the additional functions which the Corporation may perform;

- (d) the remuneration or fees payable to the members of the board of directors and the term of office of, and the manner of filling casual vacancies among, such members;
- (e) the manner in which the Corporation may invest its funds;
- (f) the form of the annual statement of accounts and the balance sheet to be prepared by the Corporation;
- (g) any other matter which has to be or may be prescribed.

(3) Every rule made by the Central Government under this section, every scheme made under section 3 and any modification thereto shall be laid as soon as may be, after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**Power  
of Cor-  
poration  
to  
make  
regula-  
tions.**

27. (1) The Corporation may, subject to the condition of previous publication and with the previous approval of the Central Government, by notification in the Gazette of India, make regulations not inconsistent with this Act and the rules made thereunder are to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the powers and functions of the Corporation which may be delegated to the zonal managers which may be appointed under the scheme;
- (b) the method of recruitment of employees and agents of the Corporation and the terms and conditions of service of such employees or agents;
- (c) the manner in which the funds of the Corporation shall be maintained;
- (d) the conduct of business at meetings of the Corporation;
- (e) the formation of committees of the Corporation and the delegation of powers and functions of the Corporation to such committees and conduct of business at meetings of such committees;
- (f) the form and manner in which policies may be issued and contracts binding the Corporation may be executed;
- (g) the manner in which and the interval within which the accounts of the various zonal offices, divisional offices and branch offices may be inspected and their accounts audited;
- (h) the conditions subject to which any payment may be made by the Corporation;
- (i) the matter necessary for efficient conduct of the affairs of the Corporation.

#### STATEMENT OF OBJECTS AND REASONS

Every year crores of rupees are spent both by the Central and State Governments in compensating the farmers affected by floods, drought and other natural calamities which ultimately increase the burden on the tax-payer without creating a sense of confidence among the farmers. If this amount of public fund is utilised for purposes of ensuring crops grown by small farmers for harvesting, the burden on the Exchequer would be, if not less, the same as it is being spent by way of relief given to the victims of 'Acts of God'. The compulsory crop insurance scheme would generate faith and confidence in the farmers and give them an incentive to devote their whole-hearted attention towards improving the agricultural produce both in quantity and quality and thereby enhance the economic progress of the country.

Hence the Bill.

NEW DELHI;  
*The 22nd October, 1971.*

C. CHITTIBABU

### FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to establish the Crop Insurance Corporation of India. Taking into consideration the enormity of the insurance scheme which the present Bill seeks to achieve, it has been provided in clause 5 that the original capital of the Crop Insurance Corporation shall be a sum not exceeding five hundred crores of rupees which has to be provided by the Central Government from time to time from the Consolidated Fund of India after due appropriation made by Parliament. Other expenditure which might have to be incurred in setting up of the Crop Insurance Corporation are not ascertainable at this stage.

The recurring expenditure of the Corporation will be met from the Fund of the Corporation.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 13 empowers the Central Government to formulate a scheme providing for compulsory insurance of crops grown by farmers for harvesting.

Clause 26 empowers the Central Government to make rules to carry out the purposes of the Act. Clause 27 provides for making of regulations by the Corporation. These powers, delegated to the Central Government and the Corporation, relate to matters of details and are of normal character.

**BILL No. 137 OF 1971**

*A Bill to regulate the procedure for prohibiting Judges of the Supreme Court or of a High Court from hearing and deciding the matter in which they are apprehended to be biased.*

Be it enacted by Parliament in the Twenty-Second Year of the Republic of India as follows:—

1. (1) This Act may be called The Judges (Prohibition of hearing in certain cases) Act, 1971.  
Short title and commencement.
- (2) It shall come into force at once.
2. (1) In this Act, unless the context otherwise requires,—  
Definitions.
  - (a) "decision" means finding, order or judgment;
  - (b) "High Court" includes a Judicial Commissioner's Court;
  - (c) "Judge" means a Judge of the Supreme Court or of a High Court and includes the Chief Justice of India and the Chief Justice of a High Court;

(d) "matter" means all proceedings in which a judicial decision has to be given;

(e) "person" includes all those who can be made parties in a litigation;

(f) "perverse" means that no reasonable person, duly instructed and trained in legal procedure, could possibly reach that decision, and in particular, when the decision does not follow, without giving reasons, rulings that are binding on the Judge concerned and have been brought to his notice;

(g) "previous" means before the start of the arguments which actually end in a decision of the matter;

(h) 'Superior Authority' means the Chief Justice or the seniormost Judge of the court to which the Judge concerned belongs, and in case the Judge concerned is himself the Chief Justice or the seniormost Judge, then in the case of a High Court it means the Supreme Court and in the case of the Supreme Court, it means the President of India.

(2) Words and phrases not defined in this Act shall have the same meaning as in The Judges (Inquiry) Act, 1968.

51 of 1968. 3. No Judge shall hear or decide a matter in which he has or had any Judge having bias not to hear or decide a matter.

4. (1) Bias shall be presumed to exist whenever there is any circumstance which can give a reasonable apprehension to any party that the Judge is not absolutely free from any prejudice, pre-judgment or influence in the matter.

(2) In particular, a Judge shall be presumed to have a bias, if—

(a) he has or had any interest, pecuniary, professional or otherwise in the matter; or

(b) he is related to any of the parties; or

(c) he knows any of the persons who are parties in the matter on a personal level, or has served under any such person (except in the capacity of the Presiding Officer of a Court), or has figured as a party, counsel or *pairokar* in any legal proceeding in which any such person was also a party; or

(d) he has dealt with that matter in any other capacity; or

(e) he has formed or expressed any opinion, final or otherwise, in the matter; or

(f) a party has been proceeded against for his contempt.

5. (a) When arguments in a matter have been heard by a Judge Prejudged (sitting singly or in Bench), wholly or in part, that Judge shall be deemed to have formed or expressed an opinion about the matter. If not to be heard if for any reason, before decision is given, the matter is taken out of the party file of that Judge so as to be treated as a fresh matter, any part to that objects.

matter may express a desire in writing, before fresh arguments actually start, that the Judge may not hear that matter. If this is done, the Judge shall not hear the matter, otherwise he may hear and decide it.

**Procedure when previous bias is believed to exist by a party**

6. (1) Whenever any party to a matter has reason to think that the matter should not be heard and decided by a Judge due to previous bias, he may write a letter to the Registrar, before the hearing of the matter begins, explaining the circumstances. The Registrar shall show that letter to the Judge concerned. If the Judge agrees with the contents of the letter, or even without agreeing with the content, agrees that the matter be not listed before him, the Registrar shall make a note on the file to that effect, and the matter shall not be listed before that Judge.

(2) If the Judge does not agree, a copy of that letter shall be served on all the other parties. If no party files an objection within fifteen days of such service, the Registrar shall make the same note with the same effect.

(3) If any party files an objection within the aforesaid time, copy of the objection shall be served on all the other parties and they may file their replies. If irreconcilable differences still remain in the position taken by the complaining party and that taken by the other parties, the Superior Authority shall hear and decide the question whether that judge can be said to have any previous bias in the matter. The matter shall not be proceeded with till such a question is decided.

**Procedure when Judge is aware of circumstances creating previous bias.**

7. (1) Except in cases covered by section 5, whenever any judge, before whom a matter is listed for hearing, has the slightest feeling that there is any circumstance which may be thought by any party to create in the Judge a previous bias against the party, it shall be his duty *suo moto* either to write to the Registrar to list the matter before some other Judge or to prepare a note explaining those circumstances. Such a note shall be served on the party who might think that the circumstances create previous bias. That party may then proceed as in sub-section (1) of section 6 within fifteen days of the service of the note on him. If he does not so proceed, the Judge may hear and decide the matter.

(2) If a Judge fails to take action under sub-section (1), or contravenes other provisions of this Act, or makes observations or gives a decision which is perverse, his action or failure to take action shall amount to misbehaviour within the meaning of the Judges (Inquiry) Act, 1968. In any inquiry under that Act it shall be a good proof of <sup>51 of 1968.</sup> previous bias that the Judge in fact made observations during the hearing or in the decision which can be called perverse. The Committee conducting the inquiry shall have the power, whether it holds the Judge guilty or not, to cancel such a hearing or decision, and if it does so, that matter shall be heard again afresh in accordance with section 8:

Provided that where such a decision was open to appeal, the decision shall not be cancelled unless the party aggrieved by that decision applied for leave to appeal within time (or the delay in making such application was condoned) but was refused such leave.

(3) The Judge shall remain on leave with full pay for the period of any enquiry against him under The Judges (Inquiry) Act, 1968, i.e. from the date the motion is admitted in either House of Parliament till the date the proceedings are dropped or the Judge is removed.

8. Whenever the Superior Authority decides under sub-section (3) of section 6 that the judge can be said to have a previous bias, it shall hear and decide the matter itself. If some other judge, or judges have to be associated with that Superior Authority they shall be, so far as possible, senior to the judge concerned.

Procedure when Superior Authority decides the existence of previous bias.

9. Notwithstanding anything contained in this Act, in case the Superior Authority is the President of India, it shall not be necessary for him to give a hearing in the matter. Unless in his opinion the complaint regarding the possibility of previous bias in the Chief Justice of India is absolutely frivolous, he shall order the proceedings to be stayed till the retirement of that Chief Justice of India, and the matter shall be heard only thereafter. All the parties, however, can at any time after such stay agree in writing to have the matter heard and decided by any other judge or judges and the matter shall be so heard and decided.

Procedure when the Superior Authority is the President of India.

10. (1) Every decision in contravention of these provisions shall be invalid.

Decision contravening these provisions to be invalid.

(2) Any party desiring to file written arguments in a matter in any court in India shall be entitled to do so and whenever a detailed judgment has to be written for giving a decision in the matter, the judgment shall meet all points contained in such written arguments.

11. Provisions of this Act shall also apply to those decisions, given before its commencement in which at some stage before the start of the actual arguments which ended in that decision, a writing had been delivered to the Registrar or to the Judge concerned or to the Superior Authority, which writing showed a desire or hope, directly or indirectly, that the matter be not heard by a Judge who ultimately was a party to the decision. If the writing had been delivered, its later rejection or withdrawal shall be immaterial. The writing may have been signed by the party or by some person or persons who can be seen from the writing itself to have been acting in the interest of that party. If such writing had been delivered, the requirements of section 5 shall be deemed to have been complied with.

Retrospective application of this Act in certain cases.

12. (1) In case any party wishes to challenge any decision given before the commencement of this Act on the ground that it is invalid under this Act, he shall write a letter to the Registrar within six months of the commencement of this Act explaining the circumstances. In case in the opinion of the Registrar the matter is simple and the impugned decision is clearly invalid under this Act, he shall inform all other parties of this position and shall proceed to get the matter heard and decided afresh as if it fell under section 8.

Procedure when decisions prior to the commencement of this Act are desired to be challenged.

(2) If the Registrar is of the opinion that the decision does not become clearly invalid under this Act, or if any party files objection within fifteen days of the service of the Registrar's note on it the Registrar shall refer the matter to the Superior Authority for decision. If the Superior Authority holds that the decision is invalid under this Act, the matter shall be heard and decided afresh as if it fell under section 3.

Procedure  
when all  
parties  
desire  
matter  
to be  
heard  
or be not  
heard  
by a  
parti-  
cular  
judge.

13. (1) Whenever all parties in a matter express a desire in writing to the office of any court in India that the matter be heard, or be not heard, by any particular judge or judges, the matter shall be heard, or be not heard as the case may be, by that particular Judge or judges.

(2) If due to the working of this section it is found that there are some Judges who do not have enough court work to do due to the unwillingness of the parties to have their matter heard and decided by them, it shall be presumed for the purposes of the Judges (Inquiry) Act, 1968, that they are guilty of misbehaviour in court.

51 of 1968

### STATEMENT OF OBJECTS AND REASONS

It has been an unwritten rule of conduct for the Judges that whenever the slightest allegation of bias, personal interest, or pre-judgment is made against a judge regarding a particular matter fixed for hearing before him, the judge unhesitatingly orders the matter to be taken out of his list and to be put up before some other judge. This rule of conduct is based on the well-known dictum that:

"Justice must not only be done but must, manifestly and undoubtedly, appear to be done."

In *Manik Lal vs. Dr. Prem Chand* (AIR 1957 SC 425) the Supreme Court observed—

"Test of bias is not whether in fact a bias has affected the judgment. The test always is and must be whether a litigant could reasonably apprehend bias."

Again in the *Andhra Pradesh State Road Transport Corporation vs. Satyanarayana Transport (P) Ltd.* (AIR 1965 SC 1303), the Supreme Court observed:

"It is an elementary rule of natural justice that a person who tries a cause should be able to deal with the matter before him objectively, fairly and impartially....No one can act in a judicial capacity if his previous conduct gives ground for believing that he cannot act with an open mind."

For sometime past, however, instances have been coming to notice in which some judges, against whom such allegations are made, persistently refuse to give up a particular case and continue to hear and decide it. Obviously in such cases grave injustice results to the complaining party. He cannot possibly have the feeling that fair justice has been done to him. Such persistence on the part of a judge undermines the confidence of the public in the judicial system.

51 or 1968. During the debate on the Judges (Inquiry) Bill, 1968 several Hon'ble Members of Parliament of all parties made pointed references to instances where biased judges had continued to decide cases and a great and understandable feeling persists that this was not fair. The case of 'Blitz' was particularly cited by several Members, where a judge persisted in sitting to decide the matter even though he had thrice previously appeared as a counsel against Blitz.

As the law at present is, if a particular Judge refuses to remove a case from his file, even after clear and admitted allegations, no other authority has the power to order the case to be taken out of the file of that Judge. Such a power does exist in the case of the District Courts (Vide section 24 of the Code of Civil Procedure, 1908), but no

such provision exists for the Judges of the High Courts or of the Supreme Court. It is, therefore, necessary to make such a provision. Moreover, a codification of the law on the subject will clarify to both the Judges and the litigants as to what kinds of bias, personal interest, pre-judgment etc. shall be presumed to disqualify a Judge from hearing a case. It will be fair both to the Judges and to the litigants, and will enhance public confidence in fair justice.

Hence the Bill.

NEW DELHI;

SHIBBAN LAL SAKSENA.

The 25th October, 1971.

S. L. SHAKDHER.

*Secretary.*